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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,903	04/15/2004	Breck Bullock	GSO904	6107

7590 12/06/2004  
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EXAMINER

NGUYEN, THONG Q

ART UNIT PAPER NUMBER

2872

DATE MAILED: 12/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/823,903	<b>Applicant(s)</b> BULLOCK ET AL.	
	<b>Examiner</b> Thong Q Nguyen	<b>Art Unit</b> 2872	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☒ Claim(s) 5-8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of species (I) as defined in claim 6 in the reply filed on 10/06/2004 is acknowledged. The traversal is on the ground(s) that "species (I) and (II) are different embodiments of the same invention, namely a means for pivoting said mirror pane longitudinally" (Election, page 1). This is not found persuasive because the means for pivoting the mirror pane has different structure and thus is patentable from each other. However, the claims 7-8 directed to the species (II) are now rejoined by the Examiner because the device as claimed in the generic claim 5 is found to be patentable. Thus, all of claims 1-8 are examined in this Office action.

### ***Drawings***

2. The drawings contain six sheets of figures 1-6 were received on 4/15/2004. These drawings are approved by the Examiner.

### ***Specification***

3. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1 and 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ochiai et al (U.S. Patent No. 4,281,898) in view of Russell (U.S. Patent No. 3,836,235).

Ochiai et al disclose a rearview mirror assembly. The assembly as disclosed in columns 4-7 and shown in figures 1-3 comprises a mirror frame (21) having a top, bottom, and side walls that are in combination define an opening front. A mirror pane (20) which is pivotal mounted inside the frame wherein the mirror pane is pivoted about its bottom section (29) by an operation of a driving system. The housing still has a support body formed on the top section and on inner surface of the mirror frame which support body comprises a recess formed on the front surface thereof for holding a component of a driving system. The driving system comprises magnets installed on the support body and the mirror pane so that the movement of the mirror pane between two positions, i.e., glare and nonglare, is depended upon the output signal from a control circuit. It is noted that the movement of the mirror pane is made along its longitudinal direction based on its length.

The only feature missing from the mirror assembly provided by Ochiai et al is that they do not disclose the use of a transparent pane disposed over the open front formed by the mirror frame as claimed. However, the use of a transparent in the open front formed by a frame supporting a mirror pane and its driving support is known to one skilled in the art as can be seen in the rearview mirror provided by

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Russell. In particular, Russell discloses a rearview mirror having a frame (4) for supporting a mirror pane (8) and its driving support (6,7,11,12 and 9) wherein the frame forms an open front which is covered by a transparent pane (5). See columns 1-2 and figures 1-4. Thus, it would have been obvious to one skilled in the art at the time the invention was made to modify the rearview mirror having a frame for supporting a mirror pane and its driving system as provided by Ochiai et al by using a transparent pane for covering the opening from formed by the frame as suggested by Russell for the purpose of preventing the environment factors such as dust or rain drops from entering the mirror assembly.

6. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ochiai et al in view of Russell as applied to claim 1 above, and further in view of Barcus et al (U.S. Patent No. 3,495,896).

The combined product as provided by Ochiai et al and Russell as described above does not disclose that the outside configuration of the mirror assembly is slant inwardly from the top to the bottom side for effecting an aerodynamic appearance. However, the use of a mirror assembly having its outer surface being made in a slant configuration for such a purpose is known to one skilled in the art. A typical example of such use of curved/slant configuration is shown in the mirror assembly provided by Barcus et al. In particular, the mirror assembly of Barcus et al comprises an outer surface wherein the surface is slanted inwardly from the top wall to the bottom wall of the outer surface. See figure 1, Thus, it would have been obvious to one skilled in the art at the time the

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invention was made to utilize an aerodynamic configuration as suggested by Barcus et al in a mirror assembly including the combined product provided by Ochiai et al and Russell for the purpose of making the assembly having an aerodynamic appearance.

***Allowable Subject Matter***

7. Claims 5-8 are objected to as being dependent upon a rejected base claim, but would be allowable if claim 5 is rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The following is a statement of reasons for the indication of allowable subject matter:

The device as claimed in claim 5 is patentable with respect to the cited art, in particular, the U.S. Patent Nos. 4,281,898; 4,571,027; 4,448,488; and 3,836,235 and the EPO reference No. 202 757 by the limitations related to the structure of means for pivoting the mirror pane as recited in the features thereof "means for pivoting...transparent pane" (claim 5, lines 2-10). It is noted that the use of an actuator and spring for providing force to move/pivot a mirror pane is provided in the art as can be seen in the EPO reference '757 and U.S. Patent Nos. 4,281,898 and 4,448,488; however, the cited art does not disclose the use of a support body having a recess for supporting an actuator attached to a drive member which is pivotally attached to a bracket attached to a back surface of the mirror pane at the top section of the mirror pane, and a spring member for biasing the top end of the mirror pane toward the transparent pane as claimed.

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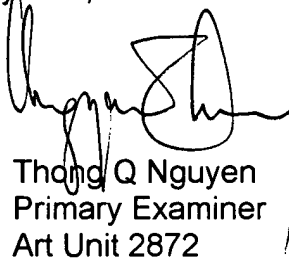
**Conclusion**

9. The additional references are cited as of interest in that each discloses a mirror assembly having a driving mechanism for driving a mirror for preventing glare.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thong Q Nguyen whose telephone number is (571) 272-2316. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew A Dunn can be reached on (571) 272-2312. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Thong Q Nguyen  
Primary Examiner  
Art Unit 2872

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